

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,) 1:22-mj-00846-TAM-1
4 Plaintiff,) Brooklyn, NY
5 vs.) August 9, 2022
6 WILLIAM SWIFT,) 3:43 PM
7 Defendant.)

8 TRANSCRIPT OF ARRAIGNMENT HEARING
9 BEFORE THE HONORABLE TARYN A. MERKL
10 UNITED STATES MAGISTRATE JUDGE

11 APPEARANCES:

12 For the Plaintiff: GILBERT REIN, AUSA
13 DOJ-USAO
14 Eastern District of New York
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Brooklyn, NY 11201

15 For the Defendant: NORA K. HIROZAWA, ESQ.
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1 THE CLERK: Criminal cause for arraignment, case
2 number 22-846-TAM, United States v. William Swift.

3 Counsel, please state your name for the records.

4 MR. GILBERT REIN: Good afternoon, Your Honor.

5 Gilbert Rein for the United States.

6 MS. NORA HIROZAWA: And good afternoon, Your Honor.

7 Nora Hirozawa, Federal Defenders on behalf of Mr. Swift, who is
8 on my side.

9 THE COURT: Good afternoon to you both.

10 And good afternoon to you as well, Mr. Swift. My name
11 is Judge Taryn Merkl. And you're here today because you have
12 been charged with a crime in a criminal complaint.

13 Ms. Hirozawa, do you have a copy of the complaint?

14 MS. HIROZAWA: Yes, Your Honor.

15 THE COURT: And have you provided it to Mr. Swift?

16 MS. HIROZAWA: Yes.

17 THE COURT: So in the criminal complaint, sir, you are
18 charged with knowingly and intentionally transmitting threats
19 in interstate and foreign commerce to various people mentioned
20 in the complaint as Jane Doe, John Doe 1, John Doe 2, John Doe
21 3, and John Doe 4. And those complaints are alleged to have
22 been communicated via email and other formats between February
23 and June of this year.

24 The purpose of the proceeding here today is to advise
25 you of certain rights that you have to make sure that you are



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1 informed about the charge against you and to decide under what
2 conditions, if any, you should be released pending trial in
3 this case or whether you should be detained in jail. First,
4 I'm going to go over your rights. It's important for you to
5 understand that you have the right to remain silent. You are
6 not required to make any statements. If you have started to
7 say something, you may stop at any time and you do not need to
8 make any further statements. But what you must understand is
9 that any statements that you make to anyone except for Ms.
10 Hirozawa and your legal team, any statements to anybody else
11 could be used against you. Mr. Swift, do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You also have the right to be represented
14 by an attorney during all court proceedings, including this
15 one, and during any questioning by the authorities. I have
16 before me a financial affidavit, which I have reviewed, that
17 does suggest that you qualify for court-appointed counsel. So
18 for purposes of today's proceeding and all future proceedings
19 in this case, the Court has appointed Ms. Hirozawa and the
20 Federal Defender represent you. Do you understand, Mr. Swift,
21 that you have the right to be represented by counsel from this
22 point forward?

23 THE DEFENDANT: Yes.

24 THE COURT: I need you to speak up.

25 THE DEFENDANT: Yes, Your Honor.



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1 THE COURT: Thank you.

2 And Mr. Rein, is there any indication that this
3 defendant is not a U.S. citizen?

4 MR. REIN: No, Your Honor.

5 THE COURT: All right. I got no implication of that
6 from pre-trial report or otherwise. And have the victims in
7 this case been notified of Mr. Swift's arrest?

8 MR. REIN: Judge, they have. The Government and the
9 FBI have spoken to two of them, have made attempts to contact
10 the other ones. But they have been notified that he's been
11 arrested and that this proceeding would be happening and
12 there'd be a question of detention or release.

13 THE COURT: Okay. Thank you.

14 So as I noted, I have before me a complaint containing
15 the charge against you. As I mentioned, the charge is at this
16 time one charge, it is interstate communication of threats of
17 bodily injury and death to five different individuals.

18 Ms. Hirozawa, have you reviewed the complaint with
19 your client?

20 MS. HIROZAWA: I have, Your Honor.

21 THE COURT: Have you advised him of his rights in
22 connection with this case?

23 MS. HIROZAWA: Yes, Your Honor.

24 THE COURT: Are you satisfied that your client
25 understands the charge?



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1 MS. HIROZAWA: Yes, Your Honor.

2 THE COURT: Is that right, Mr. Swift? Do you
3 understand what you've been charged with?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Okay. I'd now like to turn to the
6 question of pre-trial release. The Government has submitted a
7 detention memorandum in this case, which I have received and
8 reviewed.

9 Is there anything else you'd like to put on the
10 record, Mr. Rein?

11 MR. REIN: Judge, I have submitted that detention
12 memorandum. I would like to say just briefly, the --
13 obviously, the nature and circumstances of this case are such
14 that the very crime itself is the threatening of victims in
15 this case. And when the Government spoke with Jane Doe and
16 informed her that the defendant had been arrested, she was very
17 relieved. And she also wanted the Government to impress upon
18 Your Honor that she would like him detained, especially because
19 the threats in this case are directed at a specific event,
20 which is to occur in New York State at the end of this month.
21 And so the victims, especially Jane Doe, are very concerned
22 about the integrity of that event being able to take place,
23 given the defendant's threats.

24 And as Your Honor knows, the threats where shooting,
25 stabbing, hitting people in the head with a hammer. In fact,



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1 and I alluded to this in the memo I submitted to the Court,
2 just over this past weekend there were additional
3 communications between the defendant and others associated with
4 the Woodstock Fruit Festival, which is the event I'm talking
5 about where he indicated that a group picture would be a
6 perfect opportunity to commit a mass shooting. And so
7 obviously, this ideology has continued up and to essentially
8 the present. I'm informed by the agents who executed a search
9 warrant this morning that hammers and screwdrivers were found
10 in the defendant's residence along with several pocket knives.
11 And those, obviously, were things that were mentioned in the
12 threats in this case.

13 And so for all these reasons, we believe that the
14 weight of the evidence in this case is strong. In addition to
15 the items I mentioned that were seized, the FBI seized a
16 computer and a cell phone. So we believe that the evidence in
17 this case will only get stronger and it will only add to the
18 communications that the Government already possesses, which are
19 audio recordings and emails.

20 As I mentioned in my memo, the defendant is a self-
21 described incel, which is, I understand to mean involuntary --
22 involuntarily celibate. And it's a movement that the
23 Government understands to be directed toward women and hatred
24 toward women. And particularly in this case, the primary
25 victim is a woman, Jane Doe. And the defendant has said in his



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1 threats some very sexually explicit and depraved things about
2 Jane Doe. So the Government has significant concerns that if
3 the defendant is released, he'll try to follow through on the
4 threats that have been outlined both in the detention memo and
5 the complaint.

6 In particular, I want to just reiterate the fact that
7 the Government possesses and provided to the Court and Counsel
8 a message sent by the defendant to another person affiliated
9 with the Woodstock Fruit Festival saying that if he was
10 arrested he would kill Jane Doe. And obviously, now he's been
11 arrested. When -- the Government believes that, when the
12 defendant says something like that, we should take him at his
13 word, and we suggest that the Court do that as well. And as I
14 mentioned, the victims in this case that we've been able to
15 notify thus far have said that they have a preference for
16 detention in this case. So for all those reasons, Judge, we
17 believe that the detention is appropriate.

18 THE COURT: Can I just ask you a couple of factual
19 questions?

20 MR. REIN: Yes.

21 THE COURT: In your detention memorandum, you describe
22 this emails saying, "I'm not afraid of the police. I could
23 have stabbed you and do an f-ing Ted Bundy". When were those
24 messages sent?

25 MR. REIN: The -- one moment, Judge. The Ted Bundy



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1 comment was sent on June 18th, 2022.

2 THE COURT: Okay.

3 MR. REIN: The message where he says that he's not
4 afraid of the police, I -- that was said a few times.

5 THE COURT: Okay. And then this one --

6 MR. REIN: Yeah.

7 THE COURT: -- this screenshot that's --

8 MR. REIN: Yes.

9 THE COURT: -- included in your detention
10 memorandum --

11 MR. REIN: Yes.

12 THE COURT: -- when was that message sent? About
13 killing Jane Doe --

14 MR. REIN: Yes.

15 THE COURT: -- if he's arrested.

16 MR. REIN: Yes. I believe it was sent in June of
17 2022, but please give me one moment to just confer with the
18 agent.

19 THE COURT: Yes.

20 (Pause)

21 MR. REIN: Thank you, Judge. I've been able to review
22 our records briefly and the person who received that message
23 provided it to the FBI on July 7th. As to when the person
24 actually received the message from the defendant, it's not
25 quite clear from the records I have right now.



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1 THE COURT: Got it. Okay. All right. Is there
2 anything else you'd like to add?

3 MR. REIN: No, Your Honor.

4 THE COURT: Ms. Hirozawa?

5 MS. HIROZAWA: Thank you, Your Honor. I think the
6 first thing that the Court was inquiring about is one reason
7 that I think that Mr. Swift should be released, which is that
8 none of these messages or threats, although I agree that they
9 are concerning, were followed through on. And I think that the
10 context --

11 THE DEFENDANT: I had no gun.

12 MS. HIROZAWA: He never had a gun. The threats
13 about --

14 THE DEFENDANT: (Indiscernible) for self-defense on
15 the subway, which everyone needs here, by the way.

16 MS. HIROZAWA: Yeah.

17 So I think that -- I recognize that the Government has
18 indicated that there were screwdrivers and other and hammers
19 and other items found at Mr. Swift's home. I think those are
20 consistent with many household items that might be found at my
21 own home and certainly are not so exclusively consistent with
22 the threats discussed in the complaint that I think it is
23 evidence that he actually planned to follow through with any of
24 the threats that were made over the online communications.

25 Additionally, I would note, as the complaint details,



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1 that it appears at least at one point in July that Mr. Swift
2 emailed Jane Doe and stated, "I'm sorry I said such hateful and
3 threatening things to you and the people at WFF. I will not
4 harm anyone at WFF". I think these communications are perhaps
5 evidence of Mr. Swift struggling with his own personal issues.
6 And as the pre-trial services report noted, Mr. Swift does
7 struggle with a number of mental health diagnoses, and he does
8 receive disability benefits for those diagnoses.

9 I have consulted with our social work team at my
10 office, and we would be more than happy to work closely with
11 Mr. Swift to ensure that he is getting the support that he
12 needs and to ensure that he doesn't pose a danger to the
13 community.

14 I think one of my biggest concerns regarding the
15 Government's request for detention, which I spoke with Mr. Rein
16 about prior to court, is that based on very recent and
17 extensive personal experience dealing with MDC, their ability
18 to address client psychiatric needs is very limited. I have a
19 number of individuals who -- a number of clients who I work
20 with who have requested both psych medications as well as
21 therapeutic treatment. And in one case where Judge Reyes
22 actually ordered MDC to provide therapeutic treatment back in
23 January 2022. And I believe my client has been seen by the MDC
24 therapist once. They do not have the capacity or the resources
25 to provide the level of psychiatric treatment that I think Mr.



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1 Swift requires.

2 I have received a signed HIPAA from him. And I am
3 going to be in communication with his mental health provider to
4 ensure that the services he's receiving are appropriate. And
5 we would agree and recommend that the Court include mental
6 health treatment as a mandatory condition of release.

7 In addition, I think it is notable, and Mr. Swift has
8 mentioned this to me and asked that I share this with the
9 Court, that he has been struggling with his own concerns and
10 feelings of self-hatred in recent months, which led him to use
11 alcohol to excess. I think that some of this conduct resulted
12 from that, and certainly that is something that we have
13 discussed. I think it would be really beneficial for him to
14 not use alcohol, in particular to excess, and that's something
15 that he's committed to doing.

16 I know that the pre-trial services report references
17 drug use -- extensive drug use. I just wanted to note that Mr.
18 Swift actually did, I mean, he had a pretty lengthy period of
19 sobriety from 2013 to 2021. And during that time, he was also
20 struggling with eating disorders, which I think are related to
21 his OCD diagnosis. And so all of these, I think, dependencies
22 or addictions I think are interrelated with his mental health
23 diagnoses. And that's something that me and my social workers
24 are committed to working with him on to ensure that he's able
25 to manage those conditions in a way that is healthy and



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1 productive for him, and that also ensures the safety and
2 security of the witnesses -- or potential victims in this case.

3 The other notable appointment that I wanted to raise
4 with the Court is that Mr. Swift does have a surgery scheduled
5 in Rhode Island for the end of this month, I believe August
6 23rd?

7 THE DEFENDANT: 25th.

8 MS. HIROZAWA: August 25th.

9 THE DEFENDANT: Which it was paid for yesterday with a
10 credit card.

11 MS. HIROZAWA: Which he paid for yesterday. And so he
12 is very much hoping to be able to receive the medical attention
13 that he requires on that date.

14 THE DEFENDANT: I wouldn't have time to go stab or
15 shoot someone and go see the doctor in Rhode Island.

16 MS. HIROZAWA: Yeah.

17 And so, Your Honor, I do think that there are
18 conditions of release that can be set in this case. And I
19 would request that the Court set a 150,000-dollar personal
20 appearance bond, which would be cosigned by Mr. Swift and his
21 mother, Jane Swift (ph.), who is on the line. She makes
22 approximately, I believe, 197,000 dollars per year. She works
23 as a clerical assistant for a trucking company. And she
24 resides in Belford, New Jersey. If necessary, she said that
25 Mr. Swift would be able to live with her. He does have a



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1 subsidized apartment here in Brooklyn where he would like to
2 continue living to ensure that he doesn't lose that stable
3 housing. And he would be willing to participate in location
4 monitoring to assuage any concerns that the Government might
5 have. And additionally, he would be willing to abide by a stay
6 away order from any of the Jane or John Does named in the
7 complaint, which I assume the Court would impose. And if there
8 are any other conditions that the Court thinks would be
9 appropriate, we're happy to consider and agree to those.

10 THE COURT: Ms. Hirozawa, the surgery that you
11 mentioned, is that in connection with the situation described
12 at the top of page 3 of the pre-trial services report?

13 MS. HIROZAWA: That is correct, Your Honor.

14 THE COURT: Okay. Given the nature of the procedure
15 described, is that the type of thing that could be rescheduled?

16 THE DEFENDANT: No. They took my money. They say --
17 they took my money. I'm going to lose my money if I can't go
18 to it. And it's also a time thing. So in order -- so it's a
19 reverse -- what it is, it's a vasectomy reversal. I'm not --
20 and I have had sex, so I'm not an incel. I guess I just feel
21 like I don't enjoy -- I don't know if I'm saying -- but I'm --
22 the vasectomy reversal can only be reversed within a certain
23 amount of time from the vasectomy.

24 By the way, the festival also promoted vasectomies
25 and --



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1 MS. HIROZAWA: And --

2 THE DEFENDANT: -- I was angry --

3 MS. HIROZAWA: -- so --

4 THE DEFENDANT: -- at them for --

5 MS. HIROZAWA: -- let's --

6 THE DEFENDANT: -- promoting vasectomies but --

7 MS. HIROZAWA: Yeah, we can --

8 THE DEFENDANT: So I'm get -- I'm going -- I'm -- my
9 plan was to go -- up until being arrested today, my plan was to
10 go to Rhode Island to get a vasectomy reversal, because I --
11 and there's only a certain amount of time that that can be done
12 from the point of vasectomy to the point where it's even
13 possible for it to be reversed, at least according to the
14 doctor and the website and the doctors who perform that sort of
15 thing. So I think what this kind of proves is that most of
16 what I was saying is just kind of me saying angry, hateful
17 things like extremely angry, hateful things, but not
18 necessarily --

19 THE COURT: I understand where you're coming from on
20 that, sir. But I don't find the proposed bail package
21 sufficient, Ms. Hirozawa. The conduct in this case is very
22 serious and the concerns that I have are many. The defendant,
23 according to the pre-trial services report, has a history of
24 various issues. And I do think you're probably right that
25 they're all interconnected and that there is a need for mental



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1 health and substance abuse treatment. But my concern is that
2 the defendant has indicated that -- he has denied engaging in
3 any drug treatment programs. It's unclear whether or not those
4 programs would be successful.

5 The proposal of him having -- living basically alone
6 in an apartment, which was what I understood you to be saying,
7 does not provide the Court with sufficient assurance that he
8 wouldn't have a bad day and engage in conduct similar to the
9 conduct that was described in the complaint and in the
10 detention memo. And although I hear you that there's no
11 evidence in the record that he has followed through with these
12 threats yet, these threats were future-looking. They were
13 threats focused on a festival that is scheduled to occur in a
14 couple of weeks based on the information in the complaint and a
15 very specific and pointed threat at a victim pertinent to
16 whether or not he ended up arrested in connection with this
17 case.

18 And absent some sort of treatment program where he is
19 supervised and with structural supports, it's hard to imagine a
20 set of conditions that would provide the Court with the
21 requisite assurance that he would not pose a danger to the
22 specific victims in this case, the community, and also to
23 himself, Ms. Hirozawa. You yourself acknowledged the defendant
24 is sort of heavily engaged in -- there's several issues that
25 he's working through right now.



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1 And I'm sympathetic to your position and I'm
2 sympathetic to your circumstances, Mr. Swift. I really am.
3 But prior to your being able to be released, I think that the
4 Federal Defenders and the social work team should think hard
5 and look into options that would provide you with sufficient
6 structural support that you could -- there would be more
7 assurance for the Court that you would not pose a danger to the
8 victims in this case, to the community, and to yourself.

9 I'm not sure exactly what that package would look
10 like, but the package that was presented today, Ms. Hirozawa,
11 most respectfully, doesn't cut it. I also note that in the
12 pre-trial services report, there is an indication that the
13 defendant's mother would have been willing to serve, as
14 somebody told me, it was -- I think it was in the pre-trial
15 services report -- willing to serve as a third-party
16 custodian. But I don't think that there's sufficient nexus in
17 their relationship, given their living circumstances right now,
18 for her to provide the requisite supervision and assurance to
19 the Court. The pre-trial services report also indicated that
20 she was unaware that he used illicit substances or alcohol. If
21 she's that disconnected from his current circumstances, I don't
22 think she would be an appropriate third-party custodian as
23 their relationship is right now. If circumstances were to
24 change, were you to determine that she should -- that they
25 would live together or with electronic monitoring, other



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1 things, I don't know. There may be a set of circumstances that
2 would provide the Court with sufficient assurance, but the
3 package that's been proposed today is not it.

4 That being said, I do find that the defendant -- there
5 is a serious risk that the defendant poses a danger to the
6 community. And the Government has presented clear and
7 convincing evidence of that risk. So the -- any bail package
8 that the defendants would present in the future would need to
9 overcome that finding and provide sufficient assurance that he
10 would both return to court and not pose a danger to himself or
11 others. That being said, I will give leave to come back, but I
12 do make those findings.

13 Mr. Rein, is there anything else that I should take up
14 today?

15 MR. REIN: No, Your Honor.

16 THE COURT: What's the Government's position on
17 preliminary hearing? Have you discussed --

18 MR. REIN: We haven't discussed a way we can -- just
19 briefly, would -- is defendant prepared to waive a preliminary
20 hearing?

21 MS. HIROZAWA: Your Honor, we are prepared to waive a
22 preliminary hearing today to permit discussions with the
23 Government regarding the evidence and to allow me to review
24 evidence with Mr. Swift.

25 THE COURT: Okay.



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1 So Mr. Swift, just to make sure you understand what's
2 going on, you have the right to what's called a preliminary
3 hearing. That's a hearing at which the Government would have
4 the burden to show that there is probable cause to believe that
5 the crime that you're being charged with was committed and that
6 you were the person that committed it.

7 At the hearing, you or your counsel would be entitled
8 to cross-examine any witnesses or introduce evidence.
9 Normally, that hearing would be scheduled within fourteen days
10 from today. But what often happens in this district is the
11 Government chooses to indict rather than go forward at the
12 preliminary hearing. And if there is an indictment in the
13 case, there would be no preliminary hearing. Do you understand
14 all that, Mr. Swift?

15 THE DEFENDANT: Not at all.

16 THE COURT: Why don't you take a minute to talk to Ms.
17 Hirozawa.

18 (Pause)

19 MS. HIROZAWA: Thank you, Your Honor.

20 THE COURT: All right.

21 So Mr. Swift, now that you've had an opportunity to
22 talk with your attorney a little bit more about the preliminary
23 hearing, do you have a better understanding of it?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Okay. And do you agree with your counsel



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1 that you are going to waive the preliminary hearing?

2 THE DEFENDANT: Yes. Yes, Your Honor.

3 THE COURT: Okay. Thank you.

4 Is there anything other than the 5(f) order that I
5 should take up today, Mr. Rein?

6 MR. REIN: I don't believe so, Judge.

7 THE COURT: Anything further, Ms. Hirozawa?

8 MS. HIROZAWA: Not at this time, Your Honor.

9 THE COURT: Thank you.

10 So now, Mr. Swift, I have something to tell the
11 Government, okay?

12 I direct the prosecution to comply with its
13 obligations under Brady v. Maryland and its progeny to disclose
14 to the defense all information, whether admissible or not, that
15 is favorable to the defendant, material, either to guilt or to
16 punishment, and known to the prosecution. Possible
17 consequences for noncompliance may include dismissal of
18 individual charges or the entire case, exclusion of evidence,
19 and professional discipline or court sanctions on the attorneys
20 responsible for any violation. I will be entering a written
21 order more fully describing this obligation and the possible
22 consequences of failing to meet it. And I direct the
23 prosecution to review and comply with that order. Mr. Rein,
24 does the prosecution confirm that it understand its obligations
25 under Brady and Rule 5(f) and will fulfill them?



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1 MR. REIN: Yes, Judge. The Government takes these
2 obligations very seriously and will comply.

3 THE COURT: Thank you.

4 So as noted, we will enter a written order on the
5 docket later today.

6 And Ms. Hirozawa, is there anything else, anything
7 you'd like us to communicate to the MDC?

8 MS. HIROZAWA: Your Honor, I think if the MDC could be
9 directed to provide psychiatric treatment to Mr. Swift, that
10 would be greatly appreciated. I recognize that he will be in a
11 quarantine unit, at least initially, but I do think it would be
12 helpful for him to meet with a psychiatrist and not simply -- I
13 know there's a medical director who is not a licensed
14 psychologist or a psychiatrist and sometimes prescribes
15 medications. I think in Mr. Swift's case, it would be helpful
16 if he met with specifically a licensed psychiatrist.

17 THE COURT: Thank you.

18 Mr. Chin, can we enter an MDC medical order to request
19 that they have him reviewed by the psychiatrist?

20 THE CLERK: Yes.

21 THE COURT: Thank you.

22 Thank you, Ms. Hirozawa.

23 Mr. Rein, anything final?

24 MR. REIN: No, Your Honor.

25 THE COURT: Ms. Hirozawa, is there anything else?



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1 MS. HIROZAWA: Nothing further at this time. Thank
2 you, Your Honor.

3 THE COURT: Thank you.

4 (Proceedings concluded at 4:12 o'clock, p.m.)

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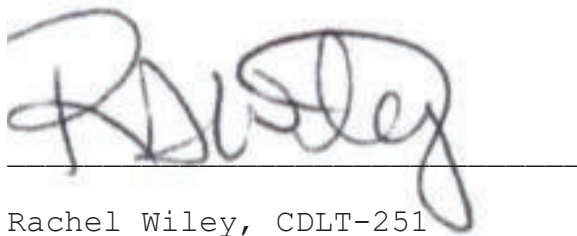
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C E R T I F I C A T I O N

I, Rachel Wiley, court-approved transcriber, do hereby
certify the foregoing is a true and correct transcript from the
official electronic sound recording of the proceedings in the
above-entitled matter.



Rachel Wiley, CDLT-251

August 23, 2022

DATE

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